

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**GEORGE PERSYN,
ADAPT OF SAN ANTONIO, INC.**

Plaintiffs,

v.

**DANIEL TORRES,
TORRES PHOTOGRAPHY,**

Defendants.

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CIVIL ACTION NO.

SA-11-CV-0141 FB (NN)

ORDER RE IN FORMA PAUPERIS APPLICATION

The matter before the Court is the plaintiff George Persyn's application to proceed in forma pauperis.

Plaintiff Persyn filed the above case on the same day that he filed a similar case making similar allegations: i.e. alleging defendants operate a retail establishment which is inaccessible to persons using wheelchairs in violation of the ADA.¹ In analyzing plaintiff's request to proceed ifp in that case, Judge Primomo reviewed plaintiff's litigation history and the pleading deficiencies resulting in dismissal of ADA cases previously filed by plaintiff. Observing that those same deficiencies were present in the case before him, Judge Primomo directed plaintiff to submit an amended complaint curing the omissions noted.

Having reviewed the allegations in this case and Judge Primomo's careful analysis of the prior opinions in cases filed by plaintiff which address the pleading and proof requirements of an

¹*George Persyn and Adapt of San Antonio, Inc. v. Agosto Cuellar and Jive Refried*, SA-11-CA-142-XR.

ADA case, I find that plaintiff has similarly neglected to include critical information in the complaint before me which plaintiff has requested permission to file without submission of the normal filing fee.

Accordingly and in the interests of justice, plaintiff is **ORDERED** to show cause in writing and file same no later than **April 8, 2011**, why his request to proceed in forma pauperis should not be denied on the ground that his proposed complaint is frivolous, malicious or fails to state a claim upon which relief may be granted. Plaintiff may respond to this Order by tendering an amended proposed complaint which specifically identifies what bona fide efforts plaintiff has made to identify defendants as the true owners of premises, that the defendants are responsible for the alleged barriers to access, and how removal of the complained of barriers would be readily achievable such that it is easily accomplished and able to be carried out without difficulty or expense.

Failure to respond to this Order with submission of an amended complaint may result in denial of the application to proceed in forma pauperis.

Plaintiff is reminded that Adapt of San Antonio, Inc. has not filed an application to proceed in forma pauperis, nor has an attorney entered an appearance on behalf of Adapt. Accordingly, any claims made by Adapt against defendants cannot proceed.

SIGNED on March 25, 2011.

A handwritten signature in cursive script that reads "Nancy Stein Nowak". The signature is written in black ink and is positioned above the printed name and title.

NANCY STEIN NOWAK
UNITED STATES MAGISTRATE JUDGE